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| SERIAL NUMBER | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. |
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08/234,145 04/28/94 KUCHERLAPATI

EX 43640002, 24

EXAMINER

FEISEE, L

ART UNIT

PAPER NUMBER

18M2/0308

CELL GENESEYS, INC.
322 LAKESIDE DRIVE
FOSTER CITY, CA 94404

17

1806
DATE MAILED:

03/08/96

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

☒ This application has been ^{restricted} examined ☒ Responsive to communication filed on 11/21/95 ☐ This action is made final.

A shortened statutory period for response to this action is set to expire 0 month(s), 30 days from the date of this letter.
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

- ☐ Notice of References Cited by Examiner, PTO-892.
- ☐ Notice of Draftsman's Patent Drawing Review, PTO-948.
- ☐ Notice of Art Cited by Applicant, PTO-1449.
- ☐ Notice of Informal Patent Application, PTO-152.
- ☐ Information on How to Effect Drawing Changes, PTO-1474.
- ☐

Part II SUMMARY OF ACTION

- ☒ Claims 1-12 are pending in the application.
Of the above, claims _____ are withdrawn from consideration.
- ☐ Claims _____ have been cancelled.
- ☐ Claims _____ are allowed.
- ☐ Claims _____ are rejected.
- ☐ Claims _____ are objected to.
- ☒ Claims 1-12 are subject to restriction or election requirement.
- ☐ This application has been filed with informal drawings under 37 C.F.R. 1.85 which are acceptable for examination purposes.
- ☐ Formal drawings are required in response to this Office action.
- ☐ The corrected or substitute drawings have been received on _____. Under 37 C.F.R. 1.84 these drawings are ☐ acceptable; ☐ not acceptable (see explanation or Notice of Draftsman's Patent Drawing Review, PTO-948).
- ☐ The proposed additional or substitute sheet(s) of drawings, filed on _____, has (have) been ☐ approved by the examiner; ☐ disapproved by the examiner (see explanation).
- ☐ The proposed drawing correction, filed _____, has been ☐ approved; ☐ disapproved (see explanation).
- ☐ Acknowledgement is made of the claim for priority under 35 U.S.C. 119. The certified copy has ☐ been received ☐ not been received ☐ been filed in parent application, serial no. _____; filed on _____.
- ☐ Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.
- ☐ Other

EXAMINER'S ACTION

Art Unit: 1806

1. Applicant's election with traverse of Group IV in Paper No. 14 is acknowledged. The traversal is on the ground(s) that the examiner has not established that the groups are drawn to different inventions. This is not found persuasive because the previous restriction requirement clearly sets forth the rationale set forth in the M.P.E.P for restricting different inventions..

The requirement is still deemed proper and is therefore made FINAL.

2. Moreover upon further consideration of the elected group a further election is deemed to be necessary as the invention of group IV contain claims directed to the following patentably distinct species of the claimed invention: All of the species listed in claims 7 and 12. All of these antibodies are directed against distinct antigens which have unique structures and unique functions. Furthermore, the antibodies produced against these antigens are structurally and functionally unique and do not cross react.

Applicant is required under 35 U.S.C. § 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claims 4-7, 10-12 are generic. The claims will be examined only to the extent that ^{they} ~~it~~ apply to the elected antibody.

Applicant is advised that a response to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently

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added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

5 Applicant is advised that the response to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed.

10 3. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 C.F.R. § 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a diligently-filed petition under 37 C.F.R. § 1.48(b) and by the fee required under 37 C.F.R. § 1.17(h).

15 4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lila Feisee whose telephone number is (703) 308-2731. The examiner can normally be reached on Mondays-Fridays from 9:00-5:30.

20 If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marian Knode, can be reached on (703) 308-4311. The fax number for this Group is (703) 305-7401.

25 Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0196.

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LILA FEISEE
PRIMARY EXAMINER
GROUP 1800

Lila Feisee/lf
March 1, 1996